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Lincoln Room

[In reference to the Bill from the Senate No. 36—"to provide for the ascertainment and satisfaction of Claims of American citizens for spoliations committed by the French prior to 31 July, 1801," and now pending in the House of Representatives.]

## WAR WITH FRANCE—WHEN?

The leading objection to the indemnity bill now pending in Congress, for the relief of the sufferers by French spoliations committed on the property of our citizens prior to the date of the convention with France of September, 1800, has uniformly been, that the Government of the United States had recourse to war with France, in which these claims were merged and lost.

Those who take that untenable position do not seem so have discovered its fallacy, nor the absurdity of its inevitable result. If war and victory, then we gained the claims; and where are they now?—if war and defeat, by which alone they could be lost, no one living will dare assert so humiliating an untruth.

In fact, there was no war; and the object of the following is to establish that fact so clearly that no sound mind can entertain a doubt on the subject.

War can only be declared by Congress, and no such declaration was made; even reprisals were not authorized.

If war, when did it commence, and when terminate? Certainly it did not exist while our Ministers were negotiating at Paris in 1797-'8, and in 1799, up to the 30th September, 1800, at which last date the Convention was concluded and ratified by Bonaparte, first Consul: it had, therefore, no beginning. When did it terminate? Certainly not in virtue of said *Convention*: no one ever heard of a *Convention of peace*—a real treaty alone can close a war. A Convention binds the nation at whose court it is concluded; but does not bind the distant nation whose negotiator has signed such Convention, it being fully understood on all sides that in so signing he has exceeded the authority confided to him, and has therefore agreed to a provisional arrangement or Convention, which his Government is at liberty to adopt or not, at its own pleasure. There is no instance of a Convention of peace in the history of any and all the nations of the earth. Besides, this Convention was limited in duration to eight years; therefore, if war had existed, the Convention would have been merely a truce for eight years, and at the expiration of the eight years, the war must either have been resumed or a treaty of peace *then* concluded; no such resumption or treaty was even then dreamt of, or can now be asserted.

That Convention does not mention either war or peace; its title runs thus:

"The premier Consul of the French Republic, in the name of the people of France, and the President of the United States of America, equally desirous to terminate the differences which have arisen between the two States, have respectively appointed their plenipotentiaries, and given them full powers to treat upon those differences, and to terminate the same, &c. &c.

There is nothing in the Convention, therefore, to sustain the allegation that war existed with France.

Let us now turn to the acts of Congress to ascertain whether a state of war directly or by implication may be found in them.

The first of these acts is dated May 28, 1798—to raise a provisional army. viz:

"That the President of the United States be, and he is hereby authorized, *in the event of a declaration of war against the United States, or of actual invasion of their territory,*



by a foreign power; or of imminent danger of such invasion discovered, in his opinion, to exist, *before the next session of Congress*, to cause to be enlisted" ten thousand men.

And on the same day. May 28, 1798, Congress passed the following act:


"Whereas armed vessels, sailing under authority, or pretence of authority, from the Republic of France, have committed depredations on the commerce of the United States, and have recently captured the vessels and property of citizens thereof on and near the coast, in violation of the law of nations, and treaties between the United States and the French nation: therefore,

"SEC. 1. That it shall be lawful for the President of the United States, and he is hereby authorized, to instruct and direct the commanders of the armed vessels belonging to the United States, to seize, take and bring into any port of the United States, to be proceeded against according to the laws of nations, any such armed vessel, which shall have committed, or which shall be found hovering on the coasts of the United States for the purpose of committing depredations on the vessels belonging to citizens thereof; and also to retake any ship or vessel, of any citizen of the United States, which may have been captured by any such armed vessel."

Act of June 13, 1798—to suspend the commercial intercourse between the United States and France:

"SEC. 4. That this act shall continue and be in force until the end of the next session of Congress, and no longer.

"SEC. 5. Provided, That if, before the next session of Congress, the Government of France, and all persons acting by or under their authority, shall clearly disavow, and shall be found to refrain from the aggressions, depredations and hostilities which have been and are by them encouraged and maintained against the vessels and other property of the citizens of the United States," &c., in such event the President may remit and discontinue the prohibitions hereby enacted.


 If war then existed, it would of itself have suspended commercial intercourse, not for one year only, but during the war.

Act of June 25, 1798—to authorize the defence of the merchant vessels of the United States against French depredations:

"SEC. 2. That whenever the commander and crew of any merchant vessel of the United States shall subdue and capture any French or pretended French armed vessel, from which an assault or other hostility shall be *first* made, as aforesaid, such armed vessel, with her tackle, appurtenances, ammunition, and lading, shall accrue, the one-half to the owners of such merchant vessel of the United States, and the other half to the captors.


"SEC. 5. That this act shall continue and be in force for the term of one year, and until the end of the next session of Congress thereafter.

"SEC. 6. Provided, That whenever the Government of France, and all persons acting by, or under their authority, shall disavow, and shall cause the commanders and crews of all armed French vessels to refrain from the lawless depredations and outrages hitherto encouraged and authorized by that Government, against the merchant vessels of the United States," &c., the President is authorized to suspend this act.

 If war then existed, it is obvious that this act was unnecessary and absurd.

Act of July 6, 1798—an act respecting alien enemies:

"SEC. 1. That whenever there shall be a declared war between the United States and any foreign nation or government, or any invasion or predatory incursion shall be perpetrated, attempted or threatened against the territory of the United States by any foreign nation or government, and the President of the United States shall make public proclamation of the event," all subjects of the hostile nation shall be removed as alien enemies.

 No such proclamation was ever made.


Act of July 7, 1798—an act to declare the treaties heretofore concluded with France no longer obligatory on the United States:

"Whereas the treaties concluded between the United States and France have been repeatedly violated on the part of the French Government: and the just claims of the United States for reparation of the injuries so committed have been refused, and their attempts to negotiate an amicable adjustment of all complaints between the two nations have been repelled with indignity; and whereas, under authority of the French Government, there is yet pursued against the United States a system of predatory vio-




lence, infracting the said treaties, and hostile to the rights of a free and independent nation:

“SEC. 1. That the United States are of right freed and exonerated from the stipulations of the treaties, and of the Consular Convention, heretofore concluded between the United States and France; and that the same shall not henceforth be regarded as legally obligatory on the Government or citizens of the United States.”

 If war then existed, it would of itself annul treaties without such an act of Congress.

Act of July 16, 1798—to augment the army of the United States, &c.:


“SEC. 2. That the President of the United States be, and he hereby is, authorized to raise, in addition to the present military establishment, twelve regiments of infantry, and six troops of light dragoons, to be enlisted for and during the continuance of the existing differences between the United States and the French Republic, unless sooner discharged.”

 This act prepared for expected war, which, nevertheless, did not come.

Act of Feb. 9, 1799—an act further to suspend the commercial intercourse between the United States and France:

SEC. 4. (The President may remit and discontinue this act.)


SEC. 8. That this act shall continue and be in force until the third day of March, in the year 1800.”

 If war then existed, it would of itself have suspended such intercourse until peace.

Act of March 2, 1799—an act giving *eventual* authority to the President of the United States to augment the army:

“SEC. 1. That it shall be lawful for the President of the United States, *in case war shall break out* between the United States and a foreign European power, or in case of imminent danger of invasion,” to raise twenty-four regiments of infantry, &c.

“SEC. 11. That the powers, by the first and second sections of this act vested in the President of the United States, shall cease at the expiration of the session of Congress next ensuing the present, unless they shall be, by some future law, continued in force for a longer time.”


 The words used in this act, “in case war shall break out,” clearly shows that up to that time war had not broken out.

Act of March 3, 1799—for the better organizing of the troops of the United States;

“SEC. 1. (Certain troops theretofore authorized) “not to be raised, until further provision shall be so made, unless war shall break out between the United States and some European Prince, People or State, in which case it shall be lawful for the President of the United States, at his discretion, to cause the said regiments, or any of them, to be severally completed to their full establishment.”


Act of Feb. 20, 1800—an act to suspend, in part, an act entitled “An act to augment the army of the United States:”

“SEC. 1. That all further enlistments under the second section of an act entitled ‘An act to augment the army of the United States,’ &c., shall be suspended until the further order of Congress, unless in the recess of Congress, and during the continuance of the existing differences between the United States and the French Republic, war shall break out between the United States and the French Republic, or imminent danger of invasion of their territory, by the said Republic, shall, in the opinion of the President of the United States, be discovered to exist.”

 The expected war had not come.

Act of 22d April, 1800—

“An act to authorize the defence of the merchant vessels of the United States against French depredations—shall continue and be in force for and during the term of one year, and from thence to the end of the next session of Congress thereafter, and no longer.”

 The suspected war had not yet come.


Act of May 14, 1800—an act supplementary to the act to suspend part of an act entitled “An act to augment the army of the United States, &c.:”

“SEC. 1. That it shall be lawful for the President of the United States to suspend any further military appointments,” &c,

“SEC. 2. That the President of the United States shall be, and hereby is, authorized and empowered to discharge, on or before the 15th day of June next, all such officers,




non-commissioned officers and privates, as have heretofore been appointed, commissioned, or raised, under and by virtue of the said acts, or either of them, except the engineers, inspector of artillery, and inspector of fortifications," and to pay those so discharged three months' extra pay.

 The expected war was no longer looked for.

Act of March 3, 1801—an act providing for a naval peace establishment;

SEC. 1. That the President of the United States be, and he hereby is, authorized, whenever the situation of public affairs shall in his opinion render it expedient, to cause to be sold, they being first divested of their guns and military stores, which are to be carefully preserved, all or any of the ships and vessels belonging to the navy, except [13 frigates, therein named,] and also to lay up all the frigates thus to be retained, except such as are directed by this act to be kept in constant service in time of peace."

"SEC. 5. That all the commissioned and warrant officers who shall be discharged as aforesaid shall be entitled to receive four months' extra pay."

 The public vessels so ordered to be sold were forthwith sold. And thus it appears that the army was disbanded and the naval vessels sold—the army 19 months, and the naval vessels 9 months before the Convention of 1800 was definitively ratified, which ratification bears date Dec. 21st, 1801. And it thus further appears by the acts of Congress above cited, and from said Convention, that no war existed between the United States and France.

The instructions to our envoys to France, Messrs. Ellsworth, Davie and Murray, who negotiated the convention with France of September 30, 1800, contain the following, after reciting the aggressions and depredations of France. The instructions are dated October 22, 1799. (Vide Senate doc., 1st sess. 19th Cong., vol. 5, doc. No. 102, p. 561:)

"This conduct of the French Republic would well have justified an immediate declaration of war on the part of the United States; but desirous of maintaining peace, and still willing to leave open the door of reconciliation with France, the United States contented themselves with preparations for defence, and measures calculated to protect their commerce."

Extract.—Mr. Marshall, Secretary of State, (late Chief Justice,) to Mr. Rufus King, our Minister to Great Britain, dated September 20, 1800. (Vide same vol., doc. No. 306, p. 452:)

"The aggressions, sometimes of one, and sometimes of another belligerent power, have forced us to contemplate and to prepare for war, as a probable event. We have repelled, and we will continue to repel, injuries not doubtful in their nature, and hostility not to be misunderstood. But this is a situation of necessity, not of choice; it is one in which we are placed, not by our own acts, but by the acts of others, and which we change so soon as the conduct of others will permit us to change it.

"The regularly accumulating injuries sustained from France had, in 1798, progressed to such a point, as to leave to the United States no reasonable ground of doubt that war was to be expected, and that force, and force only, could be relied on for the maintenance of our rights as a sovereign and independent nation. Force, therefore, was resorted to; but in the very act of resorting to it, our preference for peace was manifest, and it was apparent that we should return to our natural situation, so soon as the wrongs which forced us from it should cease, and security against their repetition be offered. A reasonable hope that this state of things may be attained has been furnished by the recent conduct and overtures of the French Government; America meets these overtures, and, in doing so, only adheres to her pacific system."

Extract.—Letter from Messrs. Ellsworth, Davie and Murray, to the French negotiators, dated April 11, 1800. (Vide same vol., doc. No. 354, p. 582:)

"With respect to the acts of Congress, which the hard alternative of abandoning their commerce, ruin imposed, and which, far from contemplating a co-operation with the enemies of the Republic, did not even authorize reprisals upon her merchantmen, but were restricted solely to the giving of safety to their own, till a moment should arrive when their sufferings could be heard and redressed."

Extract.—Letter from the French negotiators to Messrs. Ellsworth, Davie and Murray, dated Aug. 11, 1800. (Vide same vol., doc. 317, p. 616:)

"In the first place, they [the French Ministers] will insist upon the principle already laid down in their former note, viz., that the treaties which united France and the United



States are not broken ; that even war could not have broken them, but that the state of misunderstanding which has existed for some time between France and the United States, by the acts of some agents, rather than by the will of the respective Governments, has not been a state of war, at least on the side of France."

Extract.—Letter from the French Minister of Exterior Relations to M. Pichon, the Minister of France to the Hague, dated Aug. 28, 1798. (Vide same vol., doc. 393, p. 649 ;)

"France, in fine, has a double motive, as a nation and as a republic, not to expose to any hazard the present existence of the United States. Therefore, it never thought of making war against them: and every contrary supposition is an insult to common sense."

Extract.—Letter from the French negotiators to the French Minister of Exterior Relations, explaining the provisions of the Convention of 1800, dated 12th of December, 1801. (Vide same vol., doc. 344, p. 559 :)

"The intention of the treaty [convention] is to effect a general restitution of all property acknowledged as American or as French, which at the time of the signature was not condemned. The text to accomplish this object, has announced the proofs of property that would be exacted on board merchant vessels, and afterwards on board armed vessels. This distinction was necessary, on account of the *almost hostile* state of the two notions, which all at once succeeded a state of perfect neutrality."

Extract from the "Code Diplomatique," by Portiez (de l' Oise) Tribun. A Paris, Messidor An X, July 1802, "relative to the Convention of Sept. 30, 1800, between the United States and France :"

[Translation.] "The following papers will serve to exhibit the causes which, for a moment, *ruffled the harmony* between the two States," &c.

Report on the proposed ratification of the Convention of 1800, made to the Corps Legislatif, by the Counsellor of State, by order of the Consuls :

"\* \* \* In 1792, when war broke out between France and England, the United States found themselves embarrassed between their engagements towards the one and the power of the other. Difficulties sprang up as to the interpretation of the treaties ; discussions became embittered by the criminations on one side and the other, which the distance and the difficulty of communication did not permit of being dissipated. A treaty of amity and commerce, concluded during these circumstances, between the United States and England, [Mr. Jay's treaty,] was regarded in France as a proof of partiality in favor of her enemy. The commercial agents of the Republic gave rise to and excited some irritation ; the commerce of the United States was disturbed by French privateers ; several captures, to their injury, followed ; the American Congress then believed itself at liberty to declare the United States exonerated from the treaties which united them to France ; they broke off their relations with her ; they granted letters of marque against her armed vessels in the colonies ; and the encounters at sea between the vessels of the two nations soon announced that the reconciliation should be hastened if it was desired that it should not become very difficult.

"Such was the state of things when three American negotiators arrived at Paris, led hither by the desire and the hope of preventing a signal rupture.

"American commerce was alleged to have suffered considerable losses—the negotiators demanded indemnity for them.

"The French Government had also to allege claims for her commerce, which had suffered for a long time ; it recognised that it was just to liquidate, compensate, and close, if it were possible, the indemnities which might be respectively due ; but it put forth as a condition to any stipulation on this subject, that the former treaties between France and the United States should be previously recognized, considering that indemnities could only be acknowledgment of uninterrupted friendship between the two states, a disavowal of all the violences which might have grown out of a simple misunderstanding, a sort of protest against every thing which might have announced a hostile intention, a new assurance of fidelity to the old conventions ; in a word, considering that indemnities could be only the execution of the old treaties, and not the preliminary of a new one, since avowing their annihilation would have been avowing war, and imposing on that one of the two nations which would have to pay the other a balance of indemnity the shameful obligation of purchasing peace.

"The American negotiators considered themselves bound by the act of Congress which had declared the treaties null, and decided that it was impossible that they could recognise them. It consequently became necessary to adjourn the respective pretensions, and



to regulate by new stipulations the relations of amity and commerce which the negotiation was to establish. \* \* \* The reservation of opening ulterior negotiations relative to the treaties and the indemnities has been consigned to the second article, of which it has been the sole object. But the fear of awakening lively discussions, and of viewing any alteration in the good harmony which ought to be the happy result of the other stipulations, has caused this second article to be suppressed in the acts of ratification. The suppression is a prudent and amicable renunciation of the respective pretensions which were expressed in the article."

And a further report, made to the French *Tribunat*, on the same subject, on the 13th of Frimaire, year X, (Dec. 4, 1801,) contains the following:

Extract.— \* \* \* "The American Government, forgetting the duties of neutrality, had concluded, under the influence of the enemies of France, a treaty, [with England—Mr. Jay's,] which wounded our interests. The French Government, instead of entering into negotiations of which the moderate character of its agents, of which the dispositions of the American people, would have guaranteed the success, thought proper to take rigorous measures with regard to the United States; it enacted decrees, abrogated the laws favorable to the Americans, ordered the Minister of the Republic to suspend his functions near the Federal Government; and when the United States, in order to put a period to the measures which were weighing upon them, sent three envoys to Paris, it seemed little inclined to listen to them. America was soon replete with complaints against France. The men who had there constantly exhibited themselves as its enemies, seized this occasion to persuade the people, that without compromising its dignity it could not treat with the Republic. They deceived minds, exalted passions, and without difficulty influenced a Government disposed to yield to the impressions which they gave to it; and the legislative authority itself, yielding to a sentiment which it wrongfully believed to be that of the nation, on the 7th of July, 1798, enacted the following bill: [here follows a copy of the act of Congress declaring the treaties with France null.]

"In consequence of this bill, the American Government suspended the commercial relations of the United States with France, and gave to privateers permission to attack the armed vessels of the Republic. The national frigates were ordered to seek them, and to fight them. A French frigate and sloop of war, successively and unexpectedly attacked by the Americans, were obliged to yield to force; and the French flag—strange versatility of human affairs—was dragged, humiliated, before the same people who, a little while ago, with eager shouts had applauded its triumph.

"'Twas getting past recovery; war would have broken out between America and France, if the Directory, changing its system, and following the counsels of prudence, had not opposed moderation to the unmeasured conduct of the President of the United States. In this way it rendered null the projects of the American Ministry, which would have declared war against us if it only had its wishes to consult. But in being the first to move in the rupture which it desired, it would have feared its inability to rally all the people around it; in order to avoid this danger, it felt the necessity of conquering the repugnance which the Americans had for war, and of silencing the sentiments which would have made them regret to take up arms against us. It is with this view, that by hostile measures, it was provoking from our part a declaration of war, which, putting the aggression on our side, would not have left to any American the possibility of isolating himself from his Government. \* \* \* I have already, Tribunes, told you that the United States had declared the Consular Convention and the treaties of 1778 as null and void, and believed themselves freed from the obligations which they imposed upon them. The Government of the Republic, in spite of this act of Congress, did not regard the treaties as annulled, thinking that a treaty could only be abolished by the mutual consent of the two contracting parties, or by a declaration of war. But, on the one hand, France had not acceded to the dissolution of the treaties; on the other, there had not been any declaration of war. Commissions granted by the President to attack the armed vessels of France are not to be regarded as a declaration of war; the will of the President does not suffice to put America in a state of war; it requires a positive declaration of Congress to this effect. *None has ever existed.* The Republic was therefore justified in claiming the enjoyment of the stipulations comprehended in the old treaties, and indemnity for the non-execution of those stipulations.


"On their part, the United States claimed indemnities for the prizes made upon their commerce; but bound by the act of Congress of July 7, 1798, they did not believe themselves at liberty to treat according to the basis presented by the French Government; and the Ministers of the two powers, in the impossibility of resolving a difficulty which met them, determined, for the present to adjourn it. Such was, from the first, the object of the 2d article of the Convention. Nevertheless, when the Senate of the United States




examined the Convention, it approved it, with the retrenchment of the 2d article, and the President ratified it with the same modification.

"It thence necessarily followed that the Americans, in not recognizing in us the right of reviving our old treaties, also interdicted to themselves the right of claiming for indemnities; for it was in virtue of the treaty which we wished to revive that they had the power to claim these indemnities. Hence, if the treaties of 1778 were regarded as existing, it was clear that we owed indemnities to the Americans for the prizes made upon them in violation of the stipulations relative to the liberty of the flag; whilst, if the treaties were considered as abolished, we could not admit the claims of the Americans, since they could not support them by any authority."\*

The important fact should not be overlooked that a large portion of the spoliation claims had their origin prior to the date of the act of Congress of July 7, 1798, which declared the treaties with France null.

 The conditional ratification, (having the 2d article expunged,) made by the first Consul, runs thus:

"Provided that by this retrenchment the two States renounce [or mutually set off] the respective pretensions which are the object of said article."

 And the Senate of the United States, and the President, ratified finally the Convention, *including said proviso*.

The Emperor Napoleon, when at St. Helena, in dictating for history the negotiating said Convention, which, as first Consul, he had signed, records the following:

"The suppression of this article at once put an end to the privileges which France had possessed by the treaty of 1778, and annulled the just claims which America might have made for injuries *done in time of peace*." (Vide Gourgaud's Memoirs of the History of France, vol. 2, p. 129.)

Ex-Secretary of State, Timothy Pickering, in reference to the suppression of said article, thus records his judgment:

"Thus the Government [of the United States] *bartered* the just claims of our merchants on France, to obtain a relinquishment of the French claim for a restoration of the old treaties, especially the burdensome treaty of alliance, by which we were bound to guarantee the French territories in America." (Vide appendix to Senator Clayton's speech in Senate of April 23 and 24, 1846, p. 32.)

Ex-President, John Adams, in recording his judgment, states the following:

"To explain all the mysteries of that period never was and never will be in my power. It would require volumes to give a simple history of it. All that I can say of it is, there was war between St. Denis and St. George; each had an army in America, constantly skirmishing with each other, and both of them constantly stabbing me with lances, spikes and spears. *My sole object was to preserve the peace and neutrality of the country; and that, I thank God, I obtained, at the loss of my power and fame with both sides.*" (Vide same, p. 33.)

In Mr. Madison's instructions, as Secretary of State, to Mr. C. Pinckney, our Minister to Spain, dated Feb. 6, 1804, is found the following, in reference to the suppression of said second article:

"The plea on which it seems that the Spanish Government now principally relies, is the erasure of the second article of our late Convention with France, *by which France was released from the indemnities due for spoliations committed under her immediate responsibility to the United States*. This plea did not appear in the early objections of Spain to our claims. It was an afterthought, resulting from the insufficiency of every other plea, and is certainly as little valid as any other. The injuries for which indemnities are claimed from Spain, though committed by Frenchmen, took place under Spanish au-

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\*The translator adds—"This is a gross error; the spoliation claims were fully sustained by the *law of nations*, in the absence, or over and above the treaties of 1778. So says M. Talleyrand expressly in his letter of instructions to M. Pichon. See doc. No. 440, p. 698, accompanying the President's message of May 20, 1826," which runs thus:

"However, as in ratifying without explanation, the two Governments would have found themselves in an unequal position relative to the provisions expressed in the suppressed article—the suppression of this article releasing the Americans from all pretensions on our part, relative to ancient treaties; and our silence respecting the same article, leaving us exposed to the whole weight of the eventual demands of [on] this Government relative to indemnities—it has become necessary that a form be introduced into the act of ratification, in order to express the sense in which the Government of the Republic understood and accepted the abolition of the suppressed article.



thority; Spain, therefore, is answerable for them. To her we have looked, and continue to look, for redress. If the injuries done to us by her resulted in any manner from injuries done to her by France, she may, if she pleases, resort to France, as we resort to her. But whether her resort to France would be just or unjust, is a question between her and France; not between either her and us, or us and France. We claim against her, not against France. In releasing France, therefore, we have not released her. The claims, again, from which France was released, were *admitted by France*, and the release was for a *valuable consideration, in a correspondent release of the United States from certain claims on them*. The claims we make on Spain were never admitted by France, nor made on France by the United States; they made, therefore, *no part of the bargain with her, and could not be included in the release.*" (Vide Senate doc., 19th Con., No. 102, p. 795.

M. de Onis, the Minister of Spain, in negotiating the Florida treaty with Mr. J. Q. Adams, and in reference to the claims against Spain, to which Mr. Madison's instructions just cited refer, says :

"The United States *were not at war* with France, consequently their recourse, as the aggrieved party, was always open to the Government and tribunals of the aggressor." (Vide Wait's State papers, vol. 12, p. 46.)

In President Jefferson's message to Congress of 8th December, 1801, the following appears :

"It is a circumstance of sincere gratification to me, that on meeting the great council of the nation, I am able to announce to them, on grounds of reasonable certainty, that the wars and troubles which have for so many years afflicted our sister nations have at length come to an end; and that the communications of peace and commerce are once more opening among them. Whilst we devoutly return thanks to the beneficent Being who has been pleased to breathe into them the spirit of conciliation and forgiveness, we are bound, with peculiar gratitude, to be thankful to Him, *that our own peace has been preserved* through so perilous a season, and ourselves permitted quietly to cultivate the earth, and to practice and improve those arts which tend to increase our comforts. The assurances indeed of friendly disposition received from all the powers with whom we have principal relations, had inspired a confidence that our peace with them would not have been disturbed. But a cessation of the irregularities which had afflicted the commerce of neutral nations, and of the irritations and injuries produced by them, cannot but add to this confidence; and strengthens, at the same time, the hope that wrongs committed on unoffending friends, under a pressure of circumstances, will now be reviewed with candor, and will be considered as founding just claims of retribution for the past, and new assurances for the future." (Vide Wait's State papers, vol. 4, p. 325.)

*Note*—It is confidently expected that, in considering the bill now pending in Congress for the relief of those of our citizens who suffered from spoliations by the French prior to the Convention with France of 1800, those members of Congress who have heretofore opposed or now oppose such relief, on the supposition that war existed between the United States and France, and that said spoliation claims were merged in the supposed war and thereby lost to the claimants, will abandon such ground of opposition as utterly baseless and untenable, under the imposing and irresistible facts above set forth. But should a doubt on that point still exist in the mind of any one, there remains to be stated a reserved fact, that must surely dissipate all doubt, viz :

If, contrary to the truth, and for the sake of the argument solely, it be admitted that there was war—aye, twenty wars—that would each annul all existing treaties; and admitting, further, that the Convention of 1800 was a real treaty of peace, still it bears on its face the important and overruling fact, that the said claims were recognised and saved by its provisions.

Besides, these claims derived but slender support from the treaties with France—and if the treaties had never existed, were clearly valid claims against her under the law of nations—which could be now successfully plead against her, but that our own Government, for its own purposes, has bargained nway both the claims and that remedy; and having done so, cannot escape or excuse itself from responsibility for them. The abrogation of the treaties was not an abrogation of said claims; it was the direct and voluntary application of them to the public use by our Government, which transferred the obligation to satisfy them from France to the United States.